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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Graham P. Allaway et al.

Serial No. : 09/888,938

Examiner: Bo Peng, Ph.D.

Filed : June 25, 2001

Group Art Unit: 1648

For : METHODS FOR PREVENTING HIV-1 INFECTION OF CD4+ CELLS

30 Rockefeller Plaza, 20th Fl.
New York, New York 10112
May 4, 2009

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**COMMUNICATION IN RESPONSE TO APRIL 3, 2009 NOTICE OF NON-COMPLIANT
AMENDMENT (37 CFR 1.121) AND CONFIRMATION OF MAY 1, 2009
TELECONFERENCE WITH EXAMINER**

This Communication is being submitted in response to the April 3, 2009 Notice of Non-Compliant Amendment (37 CFR 1.121) issued by the United States Patent and Trademark Office in connection with the above-identified application. A response to the April 3, 2009 Notice is due on May 3, 2009. However, since May 3, 2009 falls on a Sunday, a response filed on the next succeeding day which is not a Saturday, Sunday or Federal Holiday, i.e. Monday, May 4, 2009, is considered timely under 37 C.F.R. §1.7. Accordingly, this Communication is being timely filed.

The April 3, 2009 Notice states that the Communication in Response to March 11, 2008 Office Action filed by applicants on September 15, 2008 (actually filed September 11, 2008) fails to meet the requirements of 37 C.F.R. §1.121 or §1.4 and that correction is required. Specifically, The Notice states that, in amendments to the claims, each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. A copy of the Notice is attached hereto as **Exhibit A**.

Applicants: Graham P. Allaway et al.
U.S. Serial No.: 09/888,938
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Page 2

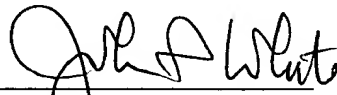
In response, applicants note that no claims were amended, cancelled, or added in the September 11, 2008 Communication. Therefore, applicants maintain that the April 3, 2009 Notice was issued in error. Furthermore, applicants note that during a May 1, 2009 teleconference between Examiner Bo Peng and Mr. Brian Amos of the undersigned's office, the Examiner agreed that the April 3, 2009 Notice was incorrectly issued.

Accordingly, applicants understand that the Examiner will withdraw the April 3, 2009 Notice Of Non-Compliant Amendment and will proceed to examine the subject application.

If a telephone interview would be of assistance in advancing prosecution of the subject application, the undersigned attorney invites the Examiner to telephone him at the telephone number provided below.

No fee is believed to be due in connection with this Communication. If any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account Number 03-3125.

Respectfully submitted,



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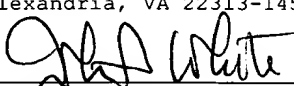
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|---|--------|
| I hereby certify that this correspondence is being deposited on this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: | |
| Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 | |
|  | 5/4/09 |
| John P. White Reg. No. 28,678 | Date |

EXHIBIT A



2009

Notice of Non-Compliant Amendment (37 CFR 1.121)

| | | |
|-----------------|----------------|--|
| Application No. | Applicant(s) | |
| 09/888,938 | ALLAWAY ET AL. | |
| Examiner | Art Unit | |
| BO PENG | 1648 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 15 September 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): _____

Non-compliant Amendment due 5-3-09
2nd 6-3-09
3rd 7-3-09
4th 8-3-09
5th 9-3-09
6th 10-3-09
Report 0.A 4-7-09

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

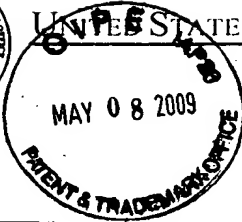
- Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
- Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

- Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
- Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

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| /BO PENG/ Examiner, Art Unit 1648 | |
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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09/888,938

06/25/2001

Graham P. Allaway

50875-DA/JRW/SHS

9272

23432 7590 04/03/2009
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NEW YORK, NY 10112

EXAMINER

PENG, BO

ART UNIT

PAPER NUMBER

1648

MAIL DATE

DELIVERY MODE

04/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.